Supreme Court, U.S.
FILED
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No. 02 - 33

IN THE

Supreme Court of the United States

SOCAL COMMUNICATIONS SITES, LLC,

Petitioner,

v.

L. DARRELL & PATRICIA F. BEVAN,

Respondents.

On Petition For Writ Of Certiorari
To The United States Court of Appeals for the Ninth Circuit

PETITIONER'S APPENDIX

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Memorandum Decision of the United States Court of Appeals for the Ninth Circuit, entered June 19, 2002 1

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Unpublished Disposition

(Cite as: _____ F.3d _____; 2002 WL 1342906 (9th Cir. (Cal.))
(Only the Westlaw citation is currently available)

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NOTE: THIS OPINION WILL NOT BE PUBLISHED IN A PRINTED VOLUME. THE DISPOSITION WILL APPEAR IN A REPORTER TABLE.

United States Court of Appeals, Ninth Circuit.

IN RE: L. DARRELL BEVAN; IN RE: PATRICIA F. BEVAN, DEBTORS;
SOCAL COMMUNICATIONS SITES, LLC, Plaintiff-Appellant,
v.
L. DARRELL BEVAN; PATRICIA F. BEVAN, Defendants-Appellees.

No. 01-56033.
D.C. No. CV-00-00931-VAP.

Submitted June 6, 2002 [FN**].

FN** The panel unanimously finds this case suitable for decision without oral argument. Fed. R.App. P. 34(a)(2).

Decided June 19, 2002.

Appeal from the United States District Court for the Central District of California Virginia A. Phillips, District Judge, Presiding.

Before FERNANDEZ, WARDLAW, and W. FLETCHER, Circuit Judges.

MEMORANDUM [FN*]

FN* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

Socal Communications Sites, LLC, appeals the district court's decision affirming the bankruptcy court's determination that debtors L. Darrell Bevan and Patricia F. Bevan had an absolute right to voluntarily dismiss their Chapter 13 bankruptcy petition. We affirm.

The bankruptcy court was correct because 11 U.S.C. § 1307(b) provides that "[o]n the request of the debtor at any time, if the case has not been converted ..., the court shall dismiss a case under this chapter," and we have said that means that the "debtor has an absolute right to dismiss a Chapter 13 petition." *Nash v. Kester (In re Nash)*, 765 F.2d 1410, 1413 (9th Cir. 1985); *see also Beatty v. Traub (In re Beatty)*, 162 B.R. 853, 857 (B.A.P. 9th Cir. 1994). Even though Socal Communications had moved to convert, the Bevans made their request for dismissal before conversion took place.

AFFIRMED.